Supreme Court, U.S.
FILED
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CLERK

No. 99-62

IN THE

Supreme Court of the United States

SANTA FE INDEPENDENT SCHOOL DISTRICT,
Petitioner,

vs.

JANE DOE, ET AL.,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

JOINT APPENDIX

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PETITION FOR CERTIORARI FILED JULY 2, 1999
CERTIORARI GRANTED NOVEMBER 15, 1999

TABLE OF CONTENTS

Relevant Docket Entries 1

Plaintiffs', Jane Does', Original Complaint (Apr. 4, 1995) (dkt. 1) [exhibits omitted] 15

Interim Order (May 10, 1995) (dkt. 4) 28

Defendants' Original Answer (May 12, 1995) (dkt. 11) 36

Order (May 19, 1995) (dkt. 13) 41

Interim Order Pertaining to Prayer at Football Games (Aug. 17, 1995) (dkt. 16) 42

Stipulations (Feb. 2, 1996) (dkt. 18) [exhibits omitted except for Exhibits 3, 16, 36, and 37] 43

Amended Stipulation of Fact (Feb. 20, 1996) (dkt. 19) [with correct version of Exhibit 37 to Stipulations] 103

The following documents are reproduced in the Appendix to the Petition for Writ of Certiorari:

A. Panel decision in *Jane Doe et al. v. Santa Fe Indep. Sch. Dist.*, 168 F.3d 806 (5th Cir., Feb. 26, 1999) A1

B. Dissent from the panel decision (Feb. 26, 1999) B1

C. Fifth Circuit order denying rehearing and rehearing *en banc* and dissent on denial of rehearing *en banc* (Apr. 7, 1999) C1

D. District court's findings of fact and conclusions of law and final judgment (Dec. 13, 1996) (dkt. 66) D1

E. District court's order on summary judgment (June 3, 1996) (dkt. 29) E1

F. Santa Fe Independent School District Pre-Game Ceremony Policy F1

G. Santa Fe Independent School District Graduation Policy G1

RELEVANT DOCKET ENTRIES

I. U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS (Galveston)
No. 95-CV-176

Date	No.	Proceedings
4/4/95	1	COMPLAINT filed * * * [Entry date 04/05/95]
		* * *
5/5/95	3	Minute entry: TRO hearing held. Appearances: Anthony Griffin, Lisa Brown, Kelly Frels, Reagan Pratt. Issued Interim rulings from bench. Court to then finalize Interim Order and to set discovery limits and timetable for final case resolution set status conference for 10:00 5/10/95 before Judge Samuel B. Kent Ct Reporter: Kathy Metzger (mb) [Entry date 05/10/95]
	4	INTERIM ORDER addressing important First Amendment issues regarding the extent to which prayer and religious influence are Constitutionally permissible in public schools, entered; Parties notified. (signed by Judge Samuel B. Kent) (mb)
5/10/95	5	Status conference held before Judge Samuel B. Kent Ct Reporter: Kathy Metzger. Appearances: Anthony

Griffin, Lisa Brown, Kelly Frels, Reagan Prat. All formal discovery suspended pending further order of the Court. Parties to exchange informal information and actively pursue settlement. Supplemental status conference set for 8/4/95 at 1:30. (lb) [Entry date 05/12/95]

* * *

5/10/95 6 TRANSCRIPT OF PROCEEDINGS for dates of 5/5/95 before Samuel B. Kent , filed. (Court Rptr: Kathy Metzger) (lb) [Entry date 05/12/95]

5/12/95 11 ANSWER to Complaint by Santa Fe Independent, Richard Ownby, Fritz Barnett, Michael Lopez Sr., Charles Scott, Jan Rothermel, Ruth Krumei, Denise Cowart, Roney McCary, Board of Trustees fo (Added attorney Kelly Frels, Lisa Ann Brown), filed. (mb) [Entry date 05/17/95]

* * *

5/19/95 13 ORDER filed pursuant to instructions of U.S. District Judge Samuel B. Kent, filed. Parties ntfd. Pursuant to the mandate of the U.S. Court of Appeals for the 5th Circuit, entered this date-No. 95-40356, the Court hereby amends its Interim Order of May 10, 1995, only to

the extent of authorizing recognition of and reference to teachers and administrators of the Defts school district.....All other aspects of the Interim Order remain in full force and effect, filed. (mb)

* * *

8/4/95 14 Status conference held before Judge Samuel B. Kent. Ct Reporter: Kathy Metzger. Appearances: Anthony Griffin, Kelly Frels. Parties to submit jt. proposed order within 10 days allowing Jones type prayer before football games. Dft to finalize a unified 1st Amendment religion/expression policy by 10/13/95 addressing all issues with options in content clearly set out. By same date, parties to prepare factual stipulations and/or factual record composed of affidavit. Dft to submit policy with options set out by 11/3/95, the fact record and its brief; by 11/30/95 pltf to file its brief. Court to rule by 12/20/95. Parties encouraged to settle damage claims as expeditiously as possible. Supplemental status conf. set for 11/3/95 at 9:30 a.m. (lb) [Entry date 08/09/95]

* * *

8/15/95	15	MEMORANDUM by Jane NMI Doe, Jane (#2) Doe in opposition to Proposed Order Regarding Prayer at Football Games, filed (lb) [Entry date 08/17/95]
8/16/95	16	INTERIM ORDER pertaining to Prayer at Football Games, entered; Parties notified. (signed by Judge Samuel B. Kent) Ordered that the district's school board may permit students at the district's high school to vote to include a pre-game prayer at varsity home football games and to select a student volunteer to deliver the prayer (mb) [Entry date 08/17/95]
11/3/95	17	Supplemental Status conference held before Judge Samuel B. Kent Ct Reporter: Kathy Metzger. Appearances: Anthony Griffin, Kelly Frels. (lb) [Entry date 11/06/95]
		* * *
2/2/96	18	STIPULATION by Jane NMI Doe, Jane (#2) Doe, Santa Fe Independent, Richard Ownby, Fritz Barnett, Michael Lopez Sr., Charles Scott, Jan Rothermel, Ruth Krumei, Denise Cowart, Roney McCary, Board of Trustees fo, Robert Sarricchio, Gina Kearley, filed. (ltp)

2/16/96	20	MOTION for summary judgment by Santa Fe Independent, Richard Ownby, Fritz Barnett, Michael Lopez Sr., Charles Scott, Jan Rothermel, Ruth Krumei, Denise Cowart, Roney McCary, Board of Trustees fo Kelly Frels for defendant Board of Trustees fo, RECEIVED IN GALVESTON 2/16/96 Motion Docket Date 3/7/96 [20-1] motion, filed. (ltp) [Entry date 02/28/96] [Edit date 02/28/96]
2/20/96	19	AMENDED STIPULATION Of Fact by Jane NMI Doe, Jane (#2) Doe, Santa Fe Independent, Richard Ownby, Fritz Barnett, Michael Lopez Sr., Charles Scott, Jan Rothermel, Ruth Krumei, Cowart, Roney McCary, Board of Trustees fo, filed. (cp) [Entry date 02/26/96]
3/8/96	21	OBJECTION to [20-1] motion for summary judgment by Jane NMI Doe, Jane (#2) Doe, filed. (ltp) [Entry date 03/11/96]
		* * *
4/2/96	22	OBJECTIONS to plaintiffs summary judgment evidence by Santa Fe Independent, filed. (ltp) [Entry date 04/03/96]
		* * *

4/4/96	24	RESPONSE by Santa Fe Independent to pltf's [21-1] objection to dft's motion for summary judgment, filed. (cp)
		* * *
5/10/96	27	Supplemental Status conference held before Judge Samuel B. Kent Ct Reporter: Kathy Metzger. Appearances: Anthony Griffin, Kelly Frels, Lisa Brown. Court to rule on MSJ by 5/31/96. All other matters ruled on as set out in record. (lb) [Entry date 05/16/96]
		* * *
6/3/96	29	ORDER granting [20-1] motion for summary judgment The Court accordingly finds the parties' arguments on this issue merely academic and altogether MOOT, and medical experts may NOT be deposed; set expert witness list and exhibit list due for 7/15/96 NO EXTENSIONS WILL BE GRANTED; A trial is hereby set for a two day period on either 7/18- or 7/19, 1996, or 7/25-26, 1996, subject only to the Courts criminal docket. This trial setting is firm. NO CONTINUANCES WILL BE GRANTED; the parties are ORDERED to bear their own taxable costs and expenses incurred herein to date; the

		parties are also ORDERED to file nothing further on the issues addressed in this order, entered; Parties notified. (signed by Judge Samuel B. Kent) (ltp) [Entry date 06/04/96]
6/28/96	30	MOTION for partial summary judgment by Santa Fe Independent, Richard Ownby, Fritz Barnett, Michael Lopez Sr., Charles Scott, Jan Rothermel, Ruth Krumei, Denise Cowart, Roney McCary, Board of Trustees fo, Motion Docket Date 7/18/96 [30-1] motion, filed. (cp)
		* * *
7/8/96	32	ORDER set trial date 8:30 7/25/96-7/26/96 before Judge Samuel B. Kent, entered; Parties notified. (signed by Judge Samuel B. Kent) (mb)
		* * *
7/12/96	35	ORDER mooting [30-1] motion for partial summary judgment, entered; Parties notified. (signed by Judge Samuel B. Kent) Parties are ordered to bear their own taxable costs and expenses incurred herein to date (mb) [Entry date 07/15/96]
		* * *

7/17/96	37	Pre-trial conference held before Judge Samuel B. Kent Ct Reporter: Kathy Metzger; Appearances: Anthony Griffin, Reagan Pratt, Lisa Brown, all claims dismissed regarding defendant, in his/her official capacity; each side bears own costs; Regarding testimony of minor pltfs, proceedings closed to public, on terms set out in record; all proceeding regarding adult plaintiffs open; all other proceedings except minor plaintiffs testimony open, Pretrial conference to be held during the period of 7/22-24/96; Time and date to be set. (ltp)

* * *

7/24/96	45	Motion hearing held, appearances: Anthony Griffin, Reagan Pratt, re:Pltf's Motion for Reconsideration of Court's Prior Order re:Privacy issues. Motion DENIED. Written Order to follow as soon as possible. Pre-trial conference to proceed after hearing before Magistrate Judge. Case remains set and ready for 8:30 a.m. on July 25, 1996. No continuances will be granted. Ct Reporter: Kathy Metzger (mb)

* * *

7/24/96	53	AGREED ORDER pertaining to trial conduct, entered; Parties notified.

(signed by Magistrate Judge John R. Froeschner) (mb) [Entry date 07/29/96]

* * *

7/25/96	48	TRANSCRIPT OF PROCEEDINGS of Hearing for dates of 7/17/96 before Judge Samuel B. Kent, filed. (Court Rptr: Kathy L. Metzger) (ltp)
7/26/96	52	Bench trial held before Judge Samuel B. Kent. Appearances: Anthony Griffin, Reagan Pratt, Kelly Frels, Lisa Ann Brown. Non-jury trial on damages completed on July 26, 1996. Pltfs' to submit Findings of Fact, Conclusions of Law, Trial Briefs and Proposed Judgment as well as Application for Attorney Fees and supporting affidavits by 1996. Disc. to be allowed between September 2-30, 1996 re: attorneys fees only. Deft to submit proposed Findings of Fact and Conclusions of Law, Trial Briefs and Proposed Judgment with Response to Application for Attorneys Fees by October 25, 1996. Pltf file Reply Brief limited to 5 pages and Reply to Response to Application for attorneys Fees by November 1, 1996. ANY PLEADING NOT FILED IN STRICT COMPLIANCE WITH THESE DEADLINES WILL BE STRICKEN! ANY DISCOVERY DISPUTES WILL BE RESOLVED IN

HEARING WITH NO PLEADINGS. Court to rule on all issues by November 22, 1996, docket obligations permitting. Ct Reporter: Kathy Metzger (mb)

* * *

8/30/96	56	TRIAL BRIEF by Jane Doe and Jane (#2) Doe, filed (nd) [Entry date 09/03/96]

* * *

8/30/96	58	Proposed FINDINGS OF FACT AND CONCLUSION OF LAW by Jane Doe and Jane (#2) Doe, filed. (nd) [Entry date 09/04/96]

* * *

10/25/96	60	TRIAL BRIEF by Santa Fe Independent School District, filed (cp)
10/25/96	61	Proposed FINDINGS OF FACT AND CONCLUSION OF LAW by Santa Fe Independent, filed. (cp)

* * *

12/13/96	64	FINDINGS OF FACT AND CONCLUSIONS OF LAW, entered (signed Judge Samuel B. Kent) (mb)

* * *

12/13/96	66	FINAL JUDGMENT, ORDERED that Pltfs take nothing from Deft; are awarded no attorney's fees; each party shall bear its own taxable costs and expenses incurred to date, entered. Parties ntfd. (signed by Judge Samuel B. Kent) (mb)

* * *

1/13/97	67	NOTICE OF APPEAL of [66-1] order, [29-2] order, [16-1] order, [4-1] order by Santa Fe Independent, filed. * * * Appeal record due on 1/28/97 (ltp) [Entry date 01/14/97]
1/13/97	68	CROSS NOTICE OF APPEAL of [66-1] order, [65-1] order, [29-2] order, [16-1] order, [4-1] order by Jane (#2) Doe, Jane NMI Doe, filed. * * * Appeal record due on 1/28/97 (ltp) [Entry date 01/14/97] [Edit date 01/14/97]

* * *

4/9/97	71	VOLUME I TRANSCRIPT OF PROCEEDINGS of bench trial for dates of 7/25/96 before Judge Samuel B. Kent , filed. (Court Rptr: Kathy Metzger) (ltp)
4/9/97	72	VOLUME II TRANSCRIPT OF PROCEEDINGS of bench trial for dates of 7/26/96 before Judge Samuel

		B. Kent, filed. (Court Rptr: Kathy Metzger) (ltp)
4/9/97	73	TRANSCRIPT OF PROCEEDINGS of supp status conf for dates of 5/10/96 before Judge Samuel B. Kent , filed. (Court Rptr: Kathy Metzger) (ltp)
4/9/97	74	TRANSCRIPT OF PROCEEDINGS of for dates of 11/3/95 before Judge Samuel B. Kent , filed. (Court Rptr: Kathy Metzger) (ltp)
4/9/97	75	TRANSCRIPT OF PROCEEDINGS of supplemental for dates of 8/4/95 before Judge Samuel B. Kent, filed. (Court Rptr: Kathy Metzger) (ltp)
5/5/97	76	TRANSCRIPT OF PROCEEDINGS of for dates of 5/5/95 before Judge Samuel B. Kent , filed. (Court Rptr: Kathy Metzger) (ltp) [Entry date 05/15/97]
		* * *

II. U.S. COURT OF APPEALS FOR THE FIFTH CIRCUIT
Nos. 97-40150, 40151

* * *

5/21/97	Briefing notice issued. * * *

* * *

11/25/97	Briefing Complete. * * *

* * *

3/3/98	Oral argument heard. Case argued by Lisa A Brown for Appellant-Cross-Appellee Santa Fe Indep Sch in 97-40150, Debora L Perkey for Appellee-Cross-Appellant Jane Doe #2, Appellee-Cross-Appellant Jane Doe in 97-40150, Lisa A Brown for Appellant-Cross-Appellee Santa Fe Indep Sch in 97-40151, Debora L Perkey for Appellee-Cross-Appellant Jane #2, Appellee-Cross-Appellant Jane Doe in 97-40151 [97-40150, 97-40151] [97-40150 97-40151]

* * *

2/26/99	Opinion filed. * * *
2/26/99	Judgment entered and filed. [97-40150, 97-40151] [97-40150 97-40151]

* * *

3/9/99	Extension granted by phone until: 3/19/99 to file rehearing for Appellant-Cross-Appellee Santa Fe Indep Sch in 97-40150, Appellant-Cross-Appellee Santa Fe Indep Sch in 97-40151. [97-40150, 97-40151] [97-40150 97-40151]

* * *

3/19/99	Petition filed by Appellant-Cross-Appellee Santa Fe Indep Sch in 97-40150, Appellant-Cross-Appellee Santa Fe Indep Sch in 97-40151 for rehearing en banc. * * *
	* * *
4/7/99	COURT Order filed denying appellant's petition for rehearing en banc. * * * (EGJ, with whom PEH, EHJ, JES, RHB, EMG, and HRD, join, dissenting) Copies to all counsel. [97-40150, 97-40151] [97-40150

* * *

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

JANE DOE, INDIVIDUALLY AND AS NEXT OF FRIEND FOR HER MINOR CHILDREN, JANE AND JOHN DOE, MINOR CHILDREN

AND

JANE DOE, INDIVIDUALLY AND AS NEXT OF FRIEND FOR HER MINOR CHILD, JOHN DOE, MINOR CHILD AND JOHN DOE, INDIVIDUALLY,
PLAINTIFFS,

CIVIL ACTION NO. G-95-176
CIVIL RIGHTS/ FIRST AMENDMENT

SANTA FE INDEPENDENT SCHOOL DISTRICT, RICHARD OWNBY, Superintendent, FRITZ BARNETT, MICHAEL LOPEZ, SR., CHARLES SCOTT, JAN ROTHERMEL, RUTH KRUMEI, DENISE COWART and RONEY MCCARY, as the BOARD OF TRUSTEES for the SANTA FE INDEPENDENT SCHOOL DISTRICT and their successors in office in their official capacities,
DEFENDANTS.

PLAINTIFFS', JANE DOES', ORIGINAL COMPLAINT
[Filed Apr. 4, 1995]

This lawsuit is brought by two parents with children attending schools in the Santa Fe Independent School District and a student attending the Santa Fe High School against the Defendants, Santa Fe Independent School District, its Superintendent of Schools, and the Board of Trustees of the School District who presently sit and any thereafter appointed, elected or assigned during the pendency of these proceedings. This lawsuit is brought to address certain constitutional violations of the First Amendment of the United States Constitution, to request certain injunctive and declaratory relief and for any equitable relief that the Plaintiffs may be entitled to under law. The Plaintiffs would show unto the Court as follows:

Parties

1) The parties have brought this suit as pseudonyms in light of the emotional nature of the debate that surrounds any attempt to remind administrators, school trustees and/or persons in authority of the value of the separation of church and state and the need to prevent the government from endorsing one religion over another.

2) Each Plaintiff is a parent of students in the Sante Fe School District. Both parents have two children in the District. Plaintiff JOHN DOE is of the age of eighteen (18) years of age and is a student in the District.

3) The SANTA FE INDEPENDENT SCHOOL DISTRICT is a political subdivision of the State of Texas,

authorized and chartered under Texas law to educate children within the confines of its district.

4) FRITZ BARNETT, MICHAEL LOPEZ, JR., CHARLES SCOTT, JAN ROTHERMEL, RUTH KRUMEI, DENISE COWART and RONEY MC CARY are Board of Trustees for the Santa Fe School District and represent those persons responsible for implementing policy at the Santa Fe Independent School District.

5) RICHARD OWNBY is the Superintendent for the Santa Fe Independent School District.

Jurisdiction and Venue

6) This Court has original jurisdiction pursuant to 28 U.S.C. section 1331 in that the Plaintiffs' cause of action arises under the Constitution and laws of the United States.

7) Jurisdiction and venue also vest pursuant to 28 U.S.C. section 1391 (b) in that all Defendants reside in the district and the Plaintiffs' claim arose in said district.

8) This Court has jurisdiction in light of the First Amendment of the United States Constitution being violated.

Allegations and Facts that Form
the Basis of This Suit

"Gideon Bible"

9) The Defendants have instituted certain policies and practices that are violative of the First Amendment of the United States. One such practice is the distribution of Gideon Bibles. This practice has been undertaken at least since 1993, and entails an invitation to the Gideons to

distribute bibles to students at the Junior High and High Schools. Even though the board has a policy against the distribution of bibles, the practice continues with the Defendants' knowledge, explicit invitation and unwritten policy.

10) Gideon bibles were distributed in December of 1993 at the Intermediate school. The distribution was approved by the Principal, Roy Johnson.

11) On or about April 14, 1994, Gideon Bibles were distributed at the High School and thrust upon each student who exited the High School. The Gideons were invited to the school by school officials and/or the appearance was approved by the officials in question. The Superintendent of Schools, Richard Ownby's, approval was based upon a feeling that the continuation of the distribution policy would be less controversial than to stop the practice. The practice is not a secret in the District; by way of example, an attachment under Appendix A is a copy of a document distributed at a local church. The document reveals the policy and practice of the District. The attachment is also provided in light of the Plaintiffs' request for injunctive relief herein. Plaintiffs also submit under Appendix B, a document from Roy E. Johnson updating the Superintendent as to the activities at the Intermediate School in general, and the Gideon Bible distribution in particular.

Graduation Ceremonies, Prayer in School,
Inquiry as to Religious Beliefs

Commencement Exercises

12) The practical effect of the unwritten and everyday practices in the Sante Fe Independent School District are in violation of the First Amendment rights of students in the district and/or the governmental endorsement of one religious belief over another. The commencement exercise of May 27, 1994 is exemplary:

Invocation: Teri Edson, Senior Class President.

"Please bow your heads."

"Dear heavenly Father, thank you for allowing us to gather here safely tonight. We thank you for the wonderful year you have allowed us to spend together as students of Santa Fe. We thank you for our teachers who have devoted many hours to each of us. Thank you, Lord, for our parents and may each one receive the special blessing. We pray also for a blessing and guidance as each student moves forward in the future. Lord, bless this ceremony and give us all a safe journey home. In Jesus' name we pray."

Salutatory address: Brittany Lindsey.

. . . "There is only one thing which we as Christians can truly rely, the faithfulness and strength of a loving God. It is now that each of us must stand on a solid rock of

Jesus Christ, stand up for those things on which we believe. Even if it is alone that we must stand. We, having done all, must continue to stand in faith remembering that Christ would have suffered and died for only one of us. So we begin the journey of life, not a life of mediocrity and compromise, but the possible life which Christ has promised, a life of abundance and joy, being confident of this very thing, that he who has begun a good work in you will complete it until the day of Jesus Christ. Thank you."

Benediction: Christy Rice, Senior Class Secretary.

"Our most gracious heavenly Father, we thank you for bringing us to this, our graduation. We ask you to be with us as we start a new beginning to our lives. Father, we express our gratitude to all that have helped us over the past three years especially we thank our parents, teachers, and friends who encouraged us, counseled us, and always extended a helping hand when needed. Please see us safely through this night and the tomorrows of our lives. In Jesus' name Amen."

13) During assemblies, graduation ceremonies and/or commencement exercises, the speeches and/or presentations of students are approved by the administrators of the District. In fact, if a student strays, deviates and/or contextually changes the text, substance of a speech or presentation, the administration has the power to mute the microphone and/or remove the student from the podium. The School District's further acknowledgment is shown by the inclusion of apicture of the bible on the commencement program.

The Classroom

14) On April 5, 1993, Jane Doe arrived at Santa Fe Junior High to pick up her daughter - a twelve year old. When Jane Doe's daughter entered the car, she began to recount an incident that occurred in the Texas History class. Plaintiff's Doe's daughter explained that fliers were handed out announcing a coming revival to be held at Jack Brooks Park. The fliers were handed out by teacher David Wilson. During the course of disseminating the fliers, the teacher asked one of the students whether she planned on attending. The student responded, yes. Mr. Wilson then said, "You know, you can invite a friend." The student then responded by saying that she would invite Jane Doe's daughter and in turn, handed a flier to her. Jane Doe's daughter then responded that she didn't know if she could go and asked if anyone could go or was it just for Baptists. The student handing the flier then inquired as to her religious beliefs. Jane Doe's daughter then responded that she was a Mormon. The teacher stated, "Oh, that's a cult." Plaintiff's daughter responded, "What?" and the teacher repeated, "That's a cult. Would you like to know about the Mormons?" The teacher then began to explain that the Mormons were not Christians, that they use the "Mormon Bible" and practiced polygamy.

The discussion took place for ten to fifteen minutes of class. The discussion took place during the time of the Branch Davidian crisis in Waco, Texas and therefore, a great deal of publicity with respect to cults was being discussed by students, parents and society in general. After the teacher's remarks during the remaining period of the class, other students directed comments to Plaintiff Doe's daughter:

"He sure does make it sound evil!"

. . . "Gee, it's kind of like the KKK, isn't it?"

. . . "I don't know if I should hang around you anymore!"

15) On May 2, 1994, Jane Doe's son, then a third grader at Santa Fe Elementary School, brought home a permission slip. The teacher, at the time, was Theresa Locke. The permission slip sought permission to teach a religious song in sign language during class. Parents were to mark the document yes or no, sign and send it back to class with the student. A copy of the document tendered with the song is attached under Appendix C, herein. After receiving the slip/note, the Plaintiff felt that she needed additional information in order to be able to sign and/or send the slip back with her child. The next morning, May 3rd, before leaving for school the child asked for the slip. The Plaintiff informed her child that she was not ready to send it back and wanted to call the school before she signed it. Plaintiff's child then informed her that if she didn't sign it, he would get two discipline marks on the board and would not be allowed to have recess. The Plaintiff then asked her son whether he wanted to learn the song - he responded that he did not. Plaintiff marked the slip 'no', signed it and gave it to her son for his teacher.

16) On May 5, 1995, Plaintiff's son informed her that the teacher had taught the song that morning during Social Studies. Plaintiff's son and a child (a new student who spoke little English) were sent to stand outside the classroom until the class was finished learning the song. The classroom is outside in a temporary building, and the door faces the parking lot. The children were without adult supervision.

17) On May 6, 1995, Plaintiff's son informed her that the class worked on the song again. He was again told to wait outside the class until they were through. The other child

was not present, in that she was in special tutoring. The State's endorsement of religion as explained in paragraphs 14, 15, and herein is exactly what the dictates of the First Amendment have historically taught against. At the time of the second incident, the Plaintiff's primary concern was to assure the safety of her minor child, in that again the child was made to wait outside, unattended, for ten to fifteen minutes. Plaintiff complained to the Assistant Principal, the Principal of the school, and to the Superintendent of Schools. Plaintiff was told that a meeting would be called to deal with establishing a policy as related to religious materials in the classroom. The meeting was called and cancelled.

18) On May 16, 1994, the teacher announced to the class that the "sign song" would no longer be done. The teacher looked directly at Jane Doe's son when making the announcement.

19) On August 16, 1994, a note was forwarded by a classroom teacher to the parents. The note is attached under Appendix B and reflects the policy of the school district as it relates to religion in the school and the insistence that the programs be Christian-based (meaning, to the exclusion of others). The note was forwarded by a Beverly Clayton and part of the note reads, "Periodically, I will be sending home a helpful hint I found useful in raising my own children. I hope you will find them useful too. A recent national poll on factors contributing to happiness and high marks in school included these findings: Students with strong religious background are the most likely to succeed in school. A related factor is that the most successful students were also those most likely to eat dinner regularly with the whole family."

20) The same teacher also distributed the Johnny Appleseed song:

> "Oh the Lord is good to me. And so I thank the Lord, for giving me the things I need, the sun and the rain and the appleseed. The Lord is good to me. Amen, Amen, Amen, Amen, Amen. Dig in!"

21) In November of 1993, fliers were distributed to the student body at the high school requesting "serious students" to participate in the "Joy Club." The club met during Advisory period with Mrs. Newberry as the sponsor. The Joy Club is a religious based club.

22) On November 22, 1993, the district showed edited versions of "America" at the Junior High and High Schools. Signed parental permissions were required before a student was allowed to attend. Unedited versions of the same film were shown at 7:00 o'clock p.m. at the High School Gym.

23) On May 22, 1994, Baccalaureate services were held at the Santa Fe High School Gym. Dick Shotwell, Youth Minister of the First Baptist Church, conducted the services. The selection of Shotwell was at the behest of the Administration without any vote or input from the students.

24) Before every football game, Jane Doe's daughter (a cheerleader) remembers that a prayer proceeded each football game.

25) The activities of the Defendants as set forth herein have no nonreligious purpose. Alternatively, any alleged nonreligious purpose is being advanced by the Defendants by religious means.

26) The activities of the Defendants as set forth herein have the primary effect of advancing, sponsoring, promoting,

endorsing and/or encouraging religion and foster excessive entanglement by Santa Fe Independent School District with religion.

PRAYER FOR RELIEF

27) Defendants have failed to respond to the Plaintiffs' request that they review these practices and communicate a policy correctly, banning and/or modifying the constitutionally violative behavior. The above and foregoing demonstrate that the Defendants, acting under color of state law, have subjected the Plaintiffs to the deprivation of their rights and privileges secured by the First Amendment of the Constitution of the United States entitling the Plaintiffs to redress their injuries under Section 1983 of Title 42 of the United States Code.

28) Plaintiffs are entitled, under and by virtue of the First and Fourteenth Amendments to the Constitution of the United States, 28 U.S.C. section 1983 and Rule 65 of the Federal Rules of Civil Procedure, to a Temporary Restraining Order and Preliminary Injunction enjoining the Defendants from sponsoring, authorizing, supervising, permitting, conducting, supporting or condoning the religious acts, customs, policies, and practices set forth herein.

29) Plaintiffs also feel that they are entitled to injunctive relief protecting them from retaliation by virtue of the Plaintiffs bringing this action seeking to protect their constitutional rights herein.

30) Plaintiffs request a hearing on the issues in this matter, that after any such hearing/trial, the Defendants be enjoined from any future acts violating the First Amendment

of the United States Constitution and that any such injunction contain language of the importance with respect to the dangers of a governmental entity endorsing one religion over another. Plaintiffs request attorneys' fees, costs and all other relief that they may be entitled to.

31) Plaintiffs request monetary damages for the constitutional violations herein.

DATE: 04/04/95

Respectfully submitted,

ANTHONY P. GRIFFIN
ATTORNEY-IN-CHARGE

STATE BAR NO. 08455300
FEDERAL ADMISSIONS NO. 4736

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Doe v. Santa Fe Independent School District:

INTERIM ORDER

[U.S. District Court, S.D. Tex., May 10, 1995]

This case addresses important First Amendment issues regarding the extent to which prayer and religious influence are Constitutionally permissible in public schools. The purpose of this Interim Order is not a comprehensive resolution of those fundamental issues. It is simply to provide some certainty of immediate action for the benefit of the parties, particularly as regards Commencement and related activities, which are now shortly scheduled in the Defendant School District. The Plaintiffs have requested a T.R.O. and F.R.C.P. Rule 65 injunctive relief. But, after carefully considering the pleadings and relevant case authority, and after having conducted two extensive hearings and having conferred extensively with counsel in chambers, the Court feels the better course, in the short term, is to fashion a basis for ultimate relief which will maximize Constitutionally permissible religious expression to the vast majority of Santa Fe citizens, while at the same time halting manifestly impermissible practices which legitimately aggrieve the few.

While the parties retain full right of timely appeal of this and any further Orders of the Court, the courtesy, cooperation and professionalism of the parties and their fine counsel in providing the Court advice and input in the crafting of this Order is genuinely appreciated. If principle is the cornerstone of Constitutional freedom, and cooperation provides the bedrock of democracy, this product of the collective wisdom and beliefs of those involved in this case represents a fine example of what this great, but contentious nation is still capable of creating.

The First Amendment of the United States Constitution provides: "Congress shall make no laws respecting an establishment of religion. . . ." The Amendment requires "the State to be a neutral [party] in its relations with groups of religious believers and non-believers; it does not require the State to be their adversary. State power is no more to be used so as to handicap religions than it is to favor them." Everson v. Board of Education, 330 U.S. 1 (1946).

In Lemon v. Kurtzman, 403 U.S. 602, 614, 91 S.Ct. 2105, 29 L.Ed.2d 745 (1971), the United States Supreme Court has recognized that "total separation of the [Church and State] is not possible in an absolute sense. Some relationship between government and religious organizations is inevitable."

In Lemon, the Supreme court established a-three-prong test for determining whether governmental activity constituted an establishment of religion in violation of the First Amendment. Under the Lemon test, the governmental practice must: (1) reflect a clearly secular purpose; (2) have a primary effect that neither advances nor inhibits religion; and (3) avoid excessive government entanglement with religion. In the present case, the initial issue before the Court is whether an invocation and benediction at a commencement exercise violates the First Amendment. In considering the Constitutionality of permitting an invocation and/or benediction at the commencement exercises, the Court must apply the three-prong test set forth in Lemon.

First, the Court must determine whether having an invocation and/or benediction at the graduation ceremony will further a secular purpose. While the Court is ordinarily deferential to a State's articulation of a secular purpose, it is required that the statement of such purpose be sincere and not a sham. Edwards v. Aquillard, 482 U.S. 578, 586-87 (1987).

In the present case, the Court notes that having an invocation and/or benediction at a graduation ceremony has been held to have the secular purpose of solemnizing the ceremony. Jones v. Clear Creek Independent School District 977 F.2d 963 (5th Cir. 1992); County of Allegheny v. American Civil Liberties Union, 492 U.S. 573, 109 S.Ct. 3086, 106 L.Ed.2d 472 (1989).

Second, it has been held that the primary effect of a prayer at a graduation ceremony is to solemnize the ceremony and not to advance religion. A requirement that any invocation be nonsectarian and non-proselytizing minimizes the advancement of religion. Jones, 977 F.2d 963, at 967. (Emphasis added.) Thus, under explicit Fifth Circuit mandate, which absolutely binds this Court, any invocation or benediction permitted must be nonsectarian and non-proselytizing.

Finally, this Court must ascertain whether Defendant Santa Fe Independent School District's permitting an invocation and/or benediction would in any way result in an excessive entanglement with religion. The United States Supreme Court in Lee V. Weisman, 112 S.Ct. 2649, 120 L.Ed.2d 467 (1992), found that unconstitutional coercion occurs when: (1) the government directs (2) a formal religious exercise (3) in such a way as to oblige the participation of objectors. Specifically, school officials decided that there would be a prayer at the graduation ceremony, selected the clergyman to give the prayer, and dictated the content of the prayer by presenting to the clergyman a pamphlet setting forth guidelines for "nonsectarian" prayer at school graduations. However, in Jones v. Clear Creek, 977 F.2d 963 (5th Cir. 1992), the Fifth Circuit has found that where the decision to include a prayer at the graduation ceremony was made by the students, a student volunteer was selected by the students to deliver the prayer, and

the content of the prayer was not dictated by the school board or administration, such prayer did not result in an excessive entanglement with religion.

Having an invocation and/or benediction at the commencement exercise serves the secular purpose of solemnizing the occasion. A nonsectarian and non-proselytizing invocation and/or benediction at the graduation ceremony neither advances nor inhibits religion. Permitting a member of the graduating senior class who has been elected by secret ballot to deliver a non-denominational prayer will not result in an excessive entanglement with religion.

Therefore, expressly bearing in mind that this Order is of an interim nature only, and intended to resolve only immediately pending problems, it is hereby **ORDERED**, **ADJUDGED** and **DECREED** as follows:

1. Unless the District's School Board votes promptly to eliminate all prayer, non-denominational prayer will be allowed at the pending graduation of the Santa Fe Independent School District, on or about May 27, 1995, consisting of an invocation and/or benediction. Either or both prayers will be presented by a senior student or students to be selected by the presently enrolled graduating seniors, by secret ballot. Jones, 977 F.2d 963. The mechanics of the election process will be set up by the officers of the graduating senior class. The election may be held on campus but not during normal business hours. No "campaigning" will be allowed on school property. Neither the District nor the school administration will have any substantive input into this process whatsoever. A school administrator will be allowed to be present for the actual election, to maintain order, and to provide for the reasonable safety and security of the proceedings. The

results of the secret election will not be subject to any approval by the District or the School Administration, but the results of the election will be promptly reported by the Senior Class President to the Principal of Santa Fe High School, who shall in turn promptly report the results to the District. Thereafter, the elected student or students will prepare such invocation and/or benediction as that student or those students consider appropriate. Such will not be subject to scrutiny or pre-approval by the District or the School Administration. Jones, 977 F.2d at 969. Generic prayers to the "Almighty", or to "God", or to "Our Heavenly Father (or Mother)", or the like, will of course be permitted. Reference to any particular deity, by name, such as Mohammed, Jesus, Buddha, or the like, will likewise be permitted, as long as the general thrust of the prayer is non-proselytizing, as required by Jones.

Pursuant to further Order of the Court, the School District will be required to establish or to clarify existing policies to deal with either banning all prayer, or firmly establishing reasonable guidelines to allow nonsectarian and non-proselytizing prayer at all relevant school functions.

2. The Court will permit a baccalaureate ceremony presently sponsored by the Santa Fe Ministerial Alliance on or about May 21, 1995. However, such ceremony will not occur during normal school hours. Lamb's Chapel v. Center Moriches Union Free School District, ___ U.S.___, 113 S.Ct. 2141, 124 L.Ed.2d 352 (1993)(holding that allowing church access to school premises to exhibit, for public viewing and for assertedly religious purposes, a film dealing with family and child rearing issues would not have been an establishment of religion, where the showing would

not have been during school hours, would not have been sponsored by the school, and would have been open to the public). The ceremony will not be endorsed, sanctioned by, or participated in by any District officials or school administration personnel of any kind or description, including counselors, teachers, school board members, school administrators, or anyone else associated with the school district or the schools in any official or employment context whatsoever, or anyone acting for or on behalf of any of them.

Any and all such persons are certainly entitled to attend such ceremony, but as regular guests only. Such individuals will not be seated in any "place of honor", or in any highly conspicuous position, such as tables in the front, the front row, or the like. District and school officials and/or administrators and the like will not be recognized by name or title during such ceremony, and will not be a functioning part of the ceremony, whatsoever. ANY BREACHES OF ANY ASPECT OF THIS ORDER MAY BE DEALT WITH BY MEANS OF APPROPRIATE SANCTIONS. Attendance of students and guests will be strictly voluntary, and will not in any way be encouraged or mandated by District or school personnel, or by students during normal school hours or on any school property. Jones, 977 F.2d 963.

While these provisions will suffice for this year's baccalaureate service, the Court will subsequently Order the School District to establish a firm policy with regard to baccalaureate activities, which allows either no services, or any baccalaureate service for any reasonable purpose, and refrains from any endorsement or official recognition of the

legitimacy of any service, by the District or school administration.

3. As regards the handing out of Gideon's Bibles, or any other First Amendment materials, hereafter, and pursuant to further Order of the Court, the School District will be required to select and implement a First Amendment dissemination policy. Specifically, the School District will be required to either allow the safe and responsible handing out by non-students of any First Amendment materials on school grounds, in an officially passive context, or to allow no non-student distribution thereof on school property. Gay Student Services v. Texas A & M University, 737 F.2d 1317 (5th Cir. 1984).

4. Pursuant to further Orders of the Court, the School District will be required to establish or to clarify existing policies with regard to dealing with manifest First Amendment infractions of teachers, counsellors, or other District or school officials or personnel, such as ridiculing, berating or holding up for inappropriate scrutiny or examination the beliefs of any individual students. Similarly, the School District will establish or clarify existing procedures for excluding overt or covert sectarian and proselytizing religious teaching, such as the use of blatantly denominational religious terms in spelling lessons, denominational religious songs and poems in English or choir classes, denominational religious stories and parables in grammar lessons and the like, while at the same time allowing for frank and open discussion of moral, religious, and societal views and beliefs, which are non-denominational and non-judgmental.

In addition to the foregoing, it is further expressly **ORDERED**, **ADJUDGED** and **DECREED** that any further

attempt on the part of District or school administration, officials, counsellors, teachers, employees or servants of the School District, parents, students or anyone else, overtly or covertly to ferret out the identities of the Plaintiffs in this cause, by means of bogus petitions, questionnaires, individual interrogation, or downright "snooping", will cease immediately. ANYONE TAKING ANY ACTION ON SCHOOL PROPERTY, DURING SCHOOL HOURS, OR WITH SCHOOL RESOURCES OR APPROVAL FOR PURPOSES OF ATTEMPTING TO ELICIT THE NAMES OR IDENTITIES OF THE PLAINTIFFS IN THIS CAUSE OF ACTION, BY OR ON BEHALF OF ANY OF THESE INDIVIDUALS, WILL FACE THE HARSHEST POSSIBLE CONTEMPT SANCTIONS FROM THIS COURT, AND MAY ADDITIONALLY FACE CRIMINAL LIABILITY. The Court wants these proceedings addressed on their merits, and not on the basis of intimidation or harassment of the participants on either side. By separate Order, the Court will promptly establish the mechanics of and time-table for the timely and effective resolution of this entire case.

IT IS SO ORDERED.

DONE at Galveston, Texas, this the 10th day of May, 1995.

SAMUEL B. KENT
UNITED STATES DISTRICT JUDGE

Doe v. Santa Fe Independent School District:

DEFENDANTS' ORIGINAL ANSWER

[Filed May 12, 1995 in U.S. District Court, S.D. Tex.]

The Defendants file this Answer to Plaintiffs' Original Complaint, as follows:

I.

AFFIRMATIVE DEFENSES

1. Some or all of the Plaintiffs' claims are barred by the applicable statute of limitations.

2. The Plaintiffs lack standing to assert the rights of any third parties.

3. To the extent that any of the individual Defendants are sued in their individual capacities, the individual Defendants assert that qualified immunity bars the claims against them.

II.

SPECIFIC ADMISSIONS AND DENIALS

The Defendants respond to the original complaint on a paragraph-by-paragraph basis as follows:

1. This paragraph does not require a response.

2. The Defendants are without sufficient information either to admit or deny these statements.

3. The Defendants admit the allegation.

4. The Defendants admit that Fritz Barnett, Michael Lopez, Charles Scott, Jan Rothermel, Ruth Krumei, Denise Cowart, and Roney McCrary were members of the Board of Trustees at the time of the filing of this answer. The Defendants admit that the Board of Trustees as a whole is the

District's policymaker; the Defendants deny that any individual Board member is a policymaker.

5. The Defendants admit that Richard Ownby is the superintendent of Santa Fe Independent School District.

6. The Defendants admit that this Court has jurisdiction over federal claims.

7. The Defendants admit that venue is proper.

8. The Defendants admit that the Court has jurisdiction over First Amendment claims; the Defendants deny that they Plaintiffs have stated a claim.

9. The Defendants admit that Bibles were made available by the Gideons, but the Defendants deny that the Gideons were "invited" or endorsed by the Defendants. The remaining allegations are denied.

10. The Defendants admit that Bibles were made available at the intermediate school and that the principal was aware that Bibles would be made available.

11. The Defendants admit that Bibles were made available at the high school in 1994. The Defendants deny the remaining allegations in this paragraph.

12. The Defendants admit that the excerpts ftom the student speeches and prayers are essentially correct. The remaining allegations of this paragraph are denied.

13. The Defendants admit that student "speeches and/or presentations" are reviewed by school officials and that school officials have the power to mute the microphone during a speech; the Defendants, however, deny that the review process or the ability to mute the microphone constitutes approval or disapproval of the content of any given speech or presentation. The Defendants admit that, in 1994, a Bible appeared on the high school graduation program.

14. The Defendants are without sufficient information either to admit or deny the specific allegations. However, the Defendants do admit that a teacher may have distributed a flier that advertised a revival and that the teacher made comments about the Mormon religion. However, the teacher was promptly reprimanded in writing for his actions.

15. The Defendants admit that a teacher, Theresa Locke, sought to teach some students the song lyrics reflected in Plaintiffs' Exhibit C. The principal later informed Mrs. Locke that the song was inappropriate. The Defendants are without sufficient information either to admit or deny the remaining allegations of this paragraph.

16. The Defendants are without sufficient information either to admit or deny the allegations in this paragraph; however, the Defendants do deny that any such events occurred on "May 5, 1995."

17. The Defendants are without sufficient information either to admit or deny the allegations in this paragraph; however, the Defendants do deny that any such events occurred on "May 6, 1995." The Defendants also deny that the activities alleged in this paragraph were endorsed by the Defendants.

18. The Defendants are without sufficient information either to admit or deny the allegation in this paragraph.

19. The Defendants admit that a teacher may have sent home the note attached as Exhibit D to Plaintiffs' Complaint, but the Defendants deny that the note constituted or reflected official policy of the school district.

20. The Defendants admit that a teacher may have used the Johnny Appleseed song; however, the principal subsequently told the teacher not to use the song.

21. The Defendants deny the allegation.

22. The Defendants admit the allegations in this paragraph; however, the correct title of the presentation was "America, You're too Young to Die."

23. The Defendants admit that baccalaureate services were held on May 22, 1994 at the high school gym and that Dick Shotwell participated. The remaining allegations are denied.

24. The Defendants admit that a student delivered a prayer before each varsity football game.

25. The allegations in this paragraph are denied.

26. The allegations in this paragraph are denied.

27. The allegations of this paragraph are denied.

28. The allegations of this paragraph are denied.

29. The allegations of this paragraph are denied.

30. The allegations of this paragraph are denied. The Defendants deny that the Plaintiffs are entitled to the relief requested.

31. The allegations of this paragraph are denied. The Defendants deny that the Plaintiffs are entitled to the relief requested.

In conclusion, the Defendants respectfully pray that the Court dismiss the Plaintiffs' claims; enter judgment that the Plaintiff take nothing on any of their claims; award the Defendants their attorneys fees and costs; and award the Defendants any other relief to which they are entitled.

Respectfully submitted,

Bracewell & Patterson, L.L.P.

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(Certificate of service omitted in printing)

Doe v. Santa Fe Independent School District:

ORDER

[U.S. District Court, S.D. Tex., May 19, 1995]

Pursuant to the mandate of the United States Court of Appeals for the 5th Circuit, entered this date, the Court hereby amends its Interim Order of May 10, 1995, only to the extent of authorizing recognition of and reference to teachers and administrators of the Defendants school district. Nothing in the Interim Order shall be construed as abridging or restricting the content of presentations of non-employees of the Defendant school district who do not speak in a purely ministerial context or employees of the school district who are ordained ministers but intend to speak in a ministerial context and not as employees of the district. While administrators and employees of the school district may attend and be acknowledged and recognized, they shall not be seated in any unique or specific place denoting endorsement of the ceremony by the district. The purpose of the Interim Order was not to restrict free speech right of expression, but to remove the imprimatur and endorsement of the school district upon the ceremony. All other aspects of the Interim Order remain in full force and effect.

Doe v. Santa Fe Independent School District:

INTERIM ORDER PERTAINING TO PRAYER AT FOOTBALL GAMES

[U.S. District Court, S.D. Tex., Aug. 17, 1995]

At a status conference held on August 4, 1995, the Court established a timetable for resolving the issues presented by this case. The sole purpose of this interim order is to establish guidelines pertaining to prayer at the Santa Fe Independent School District's varsity football games during the upcoming season. Nothing in this Order shall prevent any party from appealing the matters addressed in this Order or any other Orders issued by the Court.

It is hereby ORDERED:

The District's school board may permit the students at the District's high school to vote to include a pre-game prayer at varsity home football games and to select a student volunteer to deliver the prayer. All high school students may participate in the selection process if they so choose; however, the selection procedures previously outlined by the Court in its May 10, 1995 order concerning prayer at graduation must be followed. The pre-game prayer delivered by the volunteer student must be nonsectarian and nonproselytizing. *See Jones v. Clear Creek Indep. School Dist.*, 972 F.2d 963 (5th Cir. 1992), *cert. denied*, 113 S.Ct. 2950 (1993).

IT IS SO ORDERED.

DONE at Galveston, Texas, on this 16th of August 1995.

SAMUEL B. KENT
UNITED STATES DISTRICT JUDGE

Doe v. Santa Fe Independent School District:

STIPULATIONS

[Filed Feb. 2, 1996 in U.S. District Court, S.D. Tex.]

The parties whose attorneys' signatures appear below agree that the following statements should be treated as undisputed facts for the purpose of the Court's ruling on Defendants' first motion for summary judgment. These stipulations are in no way intended to be admissions of fact. Moreover, a party's agreement to these stipulations is not a waiver of any objections to the admissibility of these statements on, for example, relevance grounds. The agreed to stipulations should not be taken as a complete account of the incidents involved, and represent only that portion of the incident to which they refer.

I. PRELIMINARY MATTERS

1. Plaintiff Jane Doe suing individually and as next friend for her minor children, Jane and John Doe, shall be referred to as Jane Doe I.

2. Minor Plaintiff Jane Doe, on whose behalf Jane Doe I is suing, shall be referred to as Jane Doe II.

3. Plaintiff Jane Doe suing individually and as next friend for her minor child, John Doe, shall be referred to as Jane Doe III.

4. Minor Plaintiff John Doe, on whose behalf Jane Doe I is suing, shall be referred to as John Doe I.

5. Minor Plaintiff John Doe on whose behalf Jane Doe III is suing, shall be referred to as John Doe II.

6. Plaintiff John Doe, who is suing on his own behalf, shall be referred to as John Doe III.

7. At the time of filing of the lawsuit. plaintiffs Jane Doe I and Jane Doe III were parents of children attending schools in the Santa Fe Independent School District.

8. At the time of filing of the lawsuit, plaintiffs Jane Doe I and Jane Doe III both had two children attending schools in the Santa Fe Independent School District.

9. John Doe III is an adult.

10. At the time of filing of the lawsuit, John Doe III attended Santa Fe High School.

11. The Santa Fe Independent School District (Santa Fe ISD) is a political subdivision of the State of Texas and is governed by a seven-person Board of Trustees.

12. Santa Fe ISD has two elementary schools, one intermediate school, one junior high school, and one high school, with a student population of approximately 4,300 - 4,400.

13. Fritz Barnett, Michael Lopez, John Couch, Jan Rothernel, Ruth Krumei, Denise Cowart and Roney McCary are current members of the Board of Trustees of Santa Fe ISD.

14. The Board of Trustees is responsible for establishing policy at Santa Fe ISD.

15. The Board of Trustees is the final policy-maker for the Santa Fe ISD.

16. Richard Ownby is and has been since October 15, 1992, Superintendent of Santa Fe ISD.

II. DISTRIBUTION OF GIDEON BIBLES ON CAMPUS

17. Unless otherwise indicated, the written Santa Fe ISD policies discussed below are the current policies adopted by the Santa Fe ISD Board of Trustees. Unless no dates are given, the dates appearing at the end of each policy are, at the latest, the dates of adoption and amendment, as indicated.

18. Prior to 1995, the following written policies as adopted by the Board of Trustees of Santa Fe ISD were in effect:

Ex. 1:	EMI	Miscellaneous Instructional Policies: Neutrality in Religious Matters (as amended 2/18/91)
Ex.2:	FMA	Student Activities: Publications and Prior Review (as amended 10/17/88).
Ex.3:	FMA (LOCAL)	Student Activities: Publications and Prior Review (as amended 10/17/88).

Ex.4:	GKD (LEGAL)	Community Relations: Community Use of School Facilities (as amended 10/20/94).
Ex.5:	GKD (LOCAL)	Community Relations: Use of School Facilities (adopted 6/17/93).
Ex.6:	GKA	Community Relations: Conduct on School Premises (as amended 6/17/93).
Ex.7:	GKA (LEGAL)	Community Relations: Conduct on School Premises (as amended 2/16/95).
Ex.8:	GKA (LOCAL)	Community Relations: Conduct on School Premises (as amended June 17, 1993).

True and correct copies of these policies are set forth in Exhibits 1 through 8, as indicated.

A. Distribution at the Intermediate School

19. At least as far back as the 1987-88 school year and continuing at least once every year through the 1993-1994 school year, representatives from the Gideons (an organization not affiliated with Santa Fe ISD) requested authorization from the administration of Santa Fe ISD to distribute Bibles at the intermediate School, and were granted authorization to do so. At least once each school year the Gideons distributed their

Bibles at the intermediate school, as follows: The Gideons displayed their Bibles on tables in the lobby of the school at the end of the school day. The tables were the property of Santa Fe ISD. Attached as Exhibit 42 is an accurate plan of the intermediate school. The 2 shaded areas indicate the location of the tables.

20. Jane Doe III voiced her disapproval to the administration of the intermediate school after every distribution during the 1987-88 through 1993-94 school years.

21. Since the first distribution conducted while he was employed by the district, Richard Ownby knew that Gideons were distributing bibles at the intermediate school.

22. The intermediate school principal authorized in advance distribution of bibles at the intermediate school in the 1993-94 school year.

23. Richard Ownby authorized in advance the distribution of bibles at the intermediate school in the 1993-94 school year.

B. 1994 Distribution at the Senior High School

24. Attached as Exhibit 38 is a map of Santa Fe High School. It is a fair and accurate representation of the school's general layout. The shaded areas are sidewalks outside the school building.

25. In April 1994, representatives from the Gideons requested authorization from the administration of Santa Fe ISD to distribute Bibles at the Senior High School.

26. On or about April 14, 1994, at the end of the school day as students were leaving the school, Gideons distributed Bibles on the grounds of the Santa Fe High School.

27. Jane Doe I and Jane Doe III complained to the administration and to the Board about the bible distribution after it occurred.

28. In late April of 1994, Debbie Perkey of the ACLU of Texas voiced her objection regarding the bible distribution by telephone to Richard Ownby.

29. On May 5, 1994, Debbie Perkey sent a letter to Richard Ownby regarding the bible distribution. A true and correct copy of that letter is attached as Exhibit 39.

30. On May 9,1994, Debbie Perkey voiced her objections to the bible distribution to the school board at their workshop meeting.

31. Numerous residents of Santa Fe voiced their support to the administration and to the Board for the bible distribution.

C. Distributions After April 1994

32. The Gideons have not distributed Bibles at Santa Fe ISD schools since April 1994.

33. On October 10, 1995 the Board of Trustees of Santa Fe ISD adopted policy EMI (local): Miscellaneous Instructional Policies: Neutrality in Religious Matters. A true and correct copy of this policy is attached as Exhibit 9.

34. On October 10, 1995 the Board of Trustees of Santa Fe ISD adopted policy GK (Local): Distribution of Literature by Non-Students. A true and correct copy of this policy is attached as Exhibit 10.

35. On August 17, 1995 the Board of Trustees of Santa Fe ISD amended policy FMA (LOCAL): Student Activities: Publication and Prior Review. A true and correct copy of this policy is attached as Exhibit 11.

III. 1994 COMMENCEMENT EXERCISE

36. On June 17,1993, Santa Fe ISD adopted policy EMC: Miscellaneous Instructional Policies: Graduation Exercises. A true and correct copy of this policy is attached as Exhibit 12.

37. Teri Edson, senior class president, gave an invocation at the Santa Fe High School commencement on May 27,1994 as follows:

> "Please bow your heads. Dear heavenly Father thank you for allowing us to gather here safely tonight. We thank you for the wonderful year you have allowed us to spend together as students of Santa Fe. We thank you for our teachers who have devoted many hours to each of us. Thank you Lord for our parents and may each one receive a special blessing. We pray also for a blessing and guidance as each student moves forward in the future. Lord, bless this ceremony and give us all a safe journey home. In Jesus' name we pray."

38. Brittany Lindsey gave a salutatory address at the Santa Fe High School commencement on May 27,1994 as follows:

> "....There is only one thing which we as Christians can truly rely, the faithfulness and strength of a loving God. It is now that each of us must stand on a solid rock of Jesus Christ, stand up for those things on which we believe. Even if it is alone that we must stand. We, having done all, must continue to stand in faith remembering that Christ would have suffered and died for only one of us. So we begin the journey of life, not a life of mediocrity and compromise, but the possible life which Christ has promised, a life of abundance and joy, being confident of this very thing, that he who has begun a good work in you will complete it until the day of Jesus Christ. Thank You."

39. Christy Rice, senior class secretary, gave a benediction at the Santa Fe High School commencement on May 27,1994 as follows:

> "Our most gracious heavenly Father, we thank you for bringing us to this, our graduation. We ask you to be with us as we start a new beginning to our lives. Father, we express our gratitude to all that have helped us over the past three years especially do we thank our parents, teachers, and friends who encouraged us, counseled us, and always extended a helping hand when needed. Please see us safely through this night and the tomorrows of our lives. In Jesus' name Amen."

40. Prior to the commencement, the invocation, salutatory address and benediction given at the commencement were

submitted by the respective students to the principal of the high school. The principal reviewed these materials for compliance with policies FMA and FMA (Local). The principal found all submitted material to be in compliance with these policies, and informed the students that the materials were therefore acceptable for presentation at the graduation ceremony.

41. Schools officials have the power to mute the microphone during a commencement speech.

42. Schools officials have the power to remove a student from a podium during a commencement speech.

43. A bible was displayed on the cover of the Santa Fe 1994 High School graduation program. A true and correct copy of the program is attached as Exhibit 40.

44. A true and correct copy of the 1993 High School graduation program is attached as Exhibit 41.

45. Public funds are used to print the graduation programs.

IV. 1995 COMMENCEMENT EXERCISE

46. On October 20,1994, prior to the commencement of this suit, the Board of Trustees of Santa Fe ISD adopted policy EMC (LEGAL): Miscellaneous Instructional Policies: Graduation Exercises. A true and correct copy of this policy is attached as Exhibit 13.

47. On May 10,1995, the United States District Court for the Southern District of Texas, Samuel B. Kent presiding, entered

an order in this case setting forth procedures for the conduct of any prayer at Santa Fe ISD's 1995 commencement exercises.

48. On May 23,1995, the Board of Trustees of Santa Fe ISD adopted policy EMC (Local). A true and correct copy of this policy is set forth in Exhibit 14.

49. Prior to the 1995 commencement exercise, Richard Ownby met with the senior class officers to discuss the election regarding prayer at graduation.

50. Richard Ownby instructed the students that any invocation or benediction given must be nonsectarian and nonproselytizing.

51. In May 1995, the senior class held an election to determine whether to have an invocation and benediction at the commencement. The senior class officers printed the ballots and publicized the election. The class voted, by secret ballot, to include prayer at the high school graduation.

52. After this vote, the senior class asked for volunteers to deliver the invocation and benediction at commencement. The senior class printed the names of these volunteers on ballots, and on May 19, 1995 held another election to choose which students would deliver the prayers. Votes were taken between 7:00 a.m. and 7:30 a.m., and between 2:30 p.m. and 3:15 p.m. These times are outside normal class hours.

53. In this election the senior class selected two of their classmates, Jerry Du and Stephen Watson, to deliver the invocation and benediction.

54. Prior to the 1995 commencement exercise, as required under the policy of Santa Fe ISD, students submitted all of their commencement speeches for the 1995 commencement to the principal of the high school, with the exception of the invocation and benediction. As in previous years, the speeches were subject to review by the faculty or administration, and school officials had the power during the ceremony to mute the microphone or remove a student speaker.

55. The commencement exercise was held on May 27,1995.

56. The Invocation given by Stephen Watson was as follows:

> "...give thanks to You for keeping Your hand upon the graduating class of 1995. We thank You Oh Lord for keeping us safe through these twelve years of school. Thank You for gracing our lives with two very special people, (inaudible) and (inaudible). Lord, we ask that You keep Your hand upon us during this ceremony and to help us keep You in our hearts through the rest of our lives. In God's name we pray. Amen."

57. The Benediction given by Jerry Du was as follows:

> "Please join me in prayer and bow your head. Dear heavenly Father, as we leave here tonight we wish to express our gratitude for all that You have given us, our families, friends, teachers, administrators, and achievements. We most sincerely praise You and thank You for the wonders You have performed among this group of young people. We thank You for bringing us safely through these past 18 years to this turning point in our lives.

We ask You to continue to guide us along the path of knowledge and virtue, and to help us to seek honesty and courage through You. May we honor You in our peaceful hearts and serve You through our virtuous actions. Lord, we ask that You continue to bless the victims of the terrible tragedy in Oklahoma City and send them Your gospel of love and joy. Now more than ever, Lord, we pray for peace and happiness throughout the world. God, let us remember that forgiveness is the greatest weapon against hate. Father, we also pray that You keep two of our beloved classmates who have passed on ahead of us ever close to You in Your bright kingdom. May the families of (inaudible) and (inaudible) know of the love and sympathy we feel for them. We thank You God for the chance to have known these very special individuals and ask that You bless their loving families with joy and hope. Lord, we ask for Your protection as we depart to our next destination and watch over us as we go our separate ways. Grant each of us a safe trip and keep us secure throughout the night. In Your name we pray. Amen."

V. FUTURE COMMENCEMENT EXERCISES

58. On July 24,1995, the Board of Trustees of Santa Fe ISD adopted EMC(L) - Miscellaneous Instructional Policies: Graduation Exercises. A true and correct copy of policy EMC(L) is set forth in Exhibit 15.

59. With the exception of this modification of policy EMC, Santa Fe ISD has not changed any policies specifically regarding commencement exercises from those in effect in 1995.

VI. 1994 BACCALAUREATE

60. In May 1994, the following written policies of Santa Fe ISD were in effect:

Ex. 16:	FM	Student Activities (as amended 8/19/91)
Ex. 17:	FM (LOCAL)	Student Activities (as amended 4/21/94).

True and correct copies of these policies are attached as Exhibits 16 & 17, as indicated.

61. A baccalaureate is a private religious service for graduating seniors.

62. Santa Fe ISD does not require the attendance of any student at a baccalaureate service.

63. In 1994, the student activities coordinator, while working as a district employee, assisted in organizing a baccalaureate service to be held on school grounds.

64. The baccalaureate service was also noted in the graduation program. Graduation was held the week after the baccalaureate. The programs were printed with school funds.

65. On May 22, 1994, a baccalaureate service was held at the Santa Fe High School gym.

66. On August 8, 1994, Debbie Perkey of the ACLU of Texas voiced her objection to Santa Fe's practices regarding baccalaureate by telephone to Richard Ownby.

67. No rent was charged for use of the school facility.

68. The use of school facilities during non-school hours requires an additional expense to the school for utilities and maintenance.

VII. 1995 BACCALAUREATE

69. On October 20, 1994, Santa Fe ISD adopted the current version of FM (LEGAL). A true and correct copy of this policy is attached as Exhibit 18.

70. On May 10,1995, the United States District Court for the Southern District of Texas, Samuel B. Kent presiding, enterred an order in this case setting forth procedures for the conduct of the baccalaureate for Santa Fe ISD's 1995 graduating class. The Fifth Circuit Court of Appeals modified this order prior to the ceremony.

71. On May 21,1995 a group of local ministers (the Ministerial Alliance) rented the high school gym and conducted a baccalaureate service there. This service occurred outside of normal school hours. The school district charged rent of $221 for use of the gym. A true and complete copy of the rental agreement is attached as Exhibit 19.

72. The service was noted in the graduation program. Graduation occurred the next week. The graduation program

was printed with school funds, several weeks before graduation.

73. True and correct copies of the 1993 and 1994 baccalaureate programs are attached as Exhibit 44.

VIII. DAVID WILSON INCIDENT

74. Santa Fe ISD has adopted the following policies regarding Employee Standards of Conduct, with effective dates as indicated:

Ex. 21: DH (as amended 8/19/91)

Ex. 22: DH (LOCAL) (as amended 11/16/92)

Ex. 23: DH (LEGAL) (as amended 2/16/95)

Ex. 24: DH (LOCAL) (as amended 2/16/95)

Ex. 25: DH(E)(EXHIBIT) (exhibit to policies DH and DH (LEGAL)).

True and correct copies of these policies are attached as Exhibits 21-25, as indicated.

75. On April 5, 1993, teacher David Wilson handed out flyers announcing a coming revival in Jane Doe II's seventh grade history class.

76. In a conversation that ensued, in response to questions from another student, Jane Doe II said that she was a Mormon. Mr. Wilson replied that Mormons are a cult. Mr. Wilson stated that the Mormons were not Christians. Mr. Wilson told his students that Mormons use the "Mormon" Bible. Mr. Wilson told his students that Mormons practice polygamy.

77. All of Mr. Wilson's remarks were made in front of students besides Jane Doe II.

78. All of Mr. Wilson's remarks about the Mormon religion were made during class time.

79. During class, other students directed comments to Jane Doe II that demeaned her religion.

80. On April 6,1993, Jane Doe I called the junior high school to set a meeting with the principal. On April 7, 1993, Jane Doe I met with the principal and voiced her concerns regarding the incident.

81. Santa Fe ISD reprimanded Mr. Wilson in writing for this incident. A true and correct copy of that reprimand is attached as Exhibit 20.

82. On April 16, 1993, at the instruction of his principal, Mr. Wilson apologized to his class for this incident. The apology did not refer to any specific student.

83. Also on April 16, at the instruction of his principal, Mr. Wilson met privately with the principal, Jane Doe I, and Jane Doe II, and personally apologized to them for this incident.

IX. SIGN LANGUAGE

84. In May 1994, John Doe I was a third grader at Santa Fe Elementary School.

85. On May 2, 1994, John Doe I's teacher, Theresa Locke, sent home with her students, a permission slip seeking parental approval for use of a religious song to teach sign language. A true and correct copy of the permission slip is attached as Exhibit 26.

86. On May 3,1994, Jane Doe I returned the permission slip to Ms. Locke marked "No" indicating her son should not be taught the religious song. Also on May 3rd, Jane Doe I spoke by telephone to the principal of the elementary school regarding her concerns that a religious song was being taught and requested a copy of the words to the song.

87. On May 5, 1994, Ms. Locke taught the religious song during social studies class. Prior to teaching the song, Ms. Locke sent John Doe I and another student to stand outside the classroom without adult supervision while she taught the song.

88. Again on May 6, 1994, John Doe I was sent outside the classroom unsupervised while the song was taught, but this time he was sent out alone.

89. John Doe I stood outside unsupervised for ten to fifteen minutes on both of these occasions.

90. On May 9, 1994, Jane Doe I met with the principal of the elementary school about the teaching of a religious song, and

that her young son was left outside unsupervised for ten to fifteen minutes on at least two occasions. During this meeting, the principal provided Jane Doe I with a copy of the lyrics to this song. A true and correct copy of the lyrics to this song is attached as Exhibit 27.

91. After speaking with Jane Doe I on May gth, the principal met with Ms. Locke and told her that no student should be left in an unsupervised setting. The principal also directed Ms. Locke to use a different song or to omit the portion of the song referring to "Jesus, Lord Jesus".

92. Ms. Locke had taught this song to her students in the past.

X. PARENTAL NOTE

93. On August 16, 1994, Beverly Clayton was a teacher at Santa Fe Elementary School.

94. On August 16, 1994, Beverly Clayton sent home with students, including John Doe II, a letter to parents. A true and complete copy of this letter is attached as Exhibit 28.

XI. JOHNNY APPLESEED SONG

95. During the 1992-93 and 1993-94 school years, teacher Beverly Clayton distributed to her students, including John Doe II, the Johnny Appleseed Song. Ms. Clayton also led her class in the Johnny Appleseed Song just prior to lunch on most days during the 1992-93 and 1993-94 school years.

96. In August 1994, Jane Doe III requested a copy of the Johnny Appleseed Song ftom Ms. Clayton. Ms. Clayton questioned John Doe II why his mother wanted a copy. John Doe II replied that his parents wanted to see it because it might not agree with their church. Ms. Clayton asked what church he belonged to.

97. Ms Clayton responded with a note, which included the lyrics to the Johnny Appleseed Song. A true and correct copy of that note is attached as Exhibit 29.

98. Jane Doe III then complained to Mr. Ownby about the Johnny Appleseed Song.

99. Debbie Perkey of the ACLU of Texas then complained to the administration about the Johnny Appleseed song, in a teleconference with Mr. Ownby and Ms. Clayton's principal.

100. After the telephone conference with Debbie Perkey, Ms. Clayton was instructed by the administration to discontinue the use of the Johnny Appleseed Song.

XII. RELIGIOUS CLUB MEETINGS

101. In addition to the board policies referenced above, class and club organizations are governed by the student-parent handbook, and the constitutions of that club. True and correct excerpts ftom the 1995-96 Santa Fe High School Student-Parent Handbook are attached as Exhibit 43.

102. All school clubs and organizations are required to have membership rules.

103. Rules of all school clubs and organizations are reviewed in advance by a faculty or administration member, and approved if in conformity with Santa Fe ISD policies and the rules set forth in the student handbook.

104. "JOY" of the Joy Club stands for "Jesus Others You."

105. The Joy Club was a Christian organization with a religious purpose.

106. The Joy Club met in November 1993 during regular school hours.

107. A true and correct copy of page 52 of the 1993 Santa Fe Junior High Year Book is attached as Exhibit 30.

108. A true and correct copy of page 41 of the 1994 Santa Fe Junior High Year Book is attached as Exhibit 31.

109. During the 1992-1993 and 1993-1994 school years, the principal of the Jr. High School knew that the Joy Club had a religious purpose.

110. A true and correct copy of a document entitled "Santa Fe High School Organization Handbook 1994-1995" is attached as Exhibit 32.

111. Attached are true and correct copies of pages 77, 78, and 145 of the 1988 Santa Fe War Whoop (the high school yearbook) as Exhibit 39.

XIII. ASSEMBLY: "AMERICA YOU'RE TOO YOUNG TO DIE"

112. On October 21, 1993 at a regularly scheduled meeting to the Board of Trustees of Santa Fe ISD, Rev. Alan Splawn, representing the Ministerial Alliance, requested the district allow "America You're Too Young to Die", a live presentation by Life Action Ministries, to be presented to junior and senior high school students during the school day. A true and complete copy of the recorded minutes of that meeting is attached as Exhibit 33. The Board took no action on the request.

113. The script from the unedited program had religious content. A true and correct copy of the script along with the edits made is attached as Exhibit 34.

114. The administration was aware that this unedited program had religious content.

115. Members of the Board of Trustees was aware that this unedited program had religious content.

116. Parents were required to give written permission for their children to attend the presentation.

117. Prior to the date of the performance, Santa Fe ISD received complaints ftom their employees, parents of their students, and from Debbie Perkey of the ACLU regarding its religious content.

118. Santa Fe ISD also received numerous requests from their employees, parents of their students, and other residents of Santa Fe for the district to show the presentation to the students unedited.

119. Santa Fe ISD did not permit the unedited version of the presentation to be performed during normal school hours.

120. On November 22, 1993, the edited version of the program, as described in Exhibit 34, was performed for the junior and senior high school students during regular school hours.

121. On the evening of November 22, 1993, the unedited version of the program was shown in the high school gym. The Ministerial Alliance rented the gym for this purpose, paying $194 to the school district. A true and complete copy of that agreement is attached as Exhibit 35.

122. Santa Fe ISD did not require attendance of its students at this presentation.

XIV. FOOTBALL

123. Before this suit was filed, a prayer was said over the public address system before varsity home football games by the student council chaplain. The chaplain is an officer of the Student Council of Santa Fe High School. A true and correct copy of the current Constitution of the Student Council of Santa Fe High School is attached as Exhibit 36.

124. Prior to this lawsuit, prayers were said over the public address system before high school baseball games.

125. During each season, there are at least three to six home varsity high school football games.

126. High school cheerleaders are required to attend high school football games, including the pre-game ceremonies including the prayer.

127. Band is an elective course for which some students receive credit towards graduation.

128. High school band members are required to attend high school football games, including the pre-game ceremonies including the prayer.

129. On August 18,1995, the Board of Trustees of Santa Fe ISD adopted new policy FN(LOCAL)- Student Activities: Pre-Game Ceremonies at Football Games. A true and correct copy of that policy is attached as Exhibit 37.

130. On August 31, 1995, the district's high school students voted to determine whether a student would deliver prayer at varsity football games. The student council president and vice president organized and publicized the election on whether to have a prayer. The student council publicized the election for four days prior to the actual election. There was no campaigning. The student council representatives printed the ballots and counted the votes. The students chose to allow a student to say a prayer at football games.

131. After the students held the election on whether to have a prayer, the students held a second election to determine which student would deliver the prayer. This election was publicized for three days in advance of the election date of September 7, 1995. The students who voted selected Laurie Thompson to deliver the prayer at varsity football games.

DATE: 2 Feb. 96

Respectfully submitted,

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Exhibit 3

SANTA FE ISD
084909

STUDENT ACTIVITIES: FMA
PUBLICATIONS AND PRIOR REVIEW (LOCAL)

GENERAL PROVISIONS

All publications edited, printed, or distributed in the name of or within the District schools shall be under the control of the school administration and the Board. All publications approved and issued by individual schools shall be part of the instructional program, under the supervision of a faculty sponsor, and all shall be carefully edited to reflect the high ideals and expectations of the citizens of the District for their schools. The exercise of appropriate economy in materials and production is expected without jeopardy to the content. The principal shall be responsible for all matters pertaining to the organization, issuance, and sale of such publications and any other publication procedure, subject to the Superintendent's approval.

Students who have a complaint regarding the procedures or a

professional decision affecting the content or style of a school-sponsored publication shall present that complaint in accordance with FNG (LOCAL).

PRIOR REVIEW OF NONSCHOOL MATERIALS

All written material over which the school does not exercise editorial control that is intended for distribution to students shall be submitted for prior review according to the following procedures:

1. Material shall be submitted to the building principal or designee for review.

2. The principal or designee shall approve or disapprove submitted material within 24 hours of the time the material is received. Failure to act within the 24-hour period shall be interpreted as disapproval.

3. The student may appeal disapproval to the Superintendent, who shall decide the appeal within three days of its receipt. Failure of the Superintendent to act within

the three-day period shall be interpreted as disapproval.

4. If the request to distribute material was initiated by a student, disapproval may be appealed to the Board under FNG and FNG (LOCAL), beginning at Level Three. If the request to distribute material was initiated by someone other than a student, disapproval may be appealed to the Board under GF and GF (LOCAL), beginning at Level Three.

Students who fail to follow the procedures for submitting material for approval shall face disciplinary action. (See FO, FOA, FOD) Appropriate law enforcement officials shall be called when someone other than a student refuses to follow the procedures for submitting materials and fails to leave the premises when asked. (See GKA)

ADVERTISING

Student publications, excluding the annual yearbook, shall not accept advertising. Advertising in individual school publications may be accepted

from bona fide business firms, subject to the approval of professional employees exercising editorial supervision over the publications. Advertising deemed inappropriate for student readers or that advertises products presenting a health hazard, such as alcohol or tobacco products, shall not be accepted.

Exhibit 16

[Text in handwritten font was handwritten on original]

SANTA FE ISD
084909

Replaced with new policy but was in effect 11/93

STUDENT ACTIVITIES FM

PARTICIPATION ELIGIBILITY

A student in grades 7-12 may participate in extracurricular activities on or off campus at the beginning of the school year only if the student has earned the cumulative number of units in state-approved courses indicated below:

FIRST SIX-WEEK PERIOD

1. Beginning of the seventh grade year -- have been promoted from the sixth grade to the seventh.

2. Beginning of the eighth grade year -- have been promoted from the seventh grade to the eighth.

3. Beginning of the ninth grade year -- have been promoted from the eighth grade to the ninth.

4. Beginning of the tenth grade year -- at least five units toward graduation.

5. Beginning of the eleventh grade year -- at least ten units toward graduation.

6. Beginning of the twelfth grade year -- at least 15 units toward graduation.

SUBSEQUENT SIX-WEEK PERIODS

In order to be eligible to participate in an extracurricular activity event for a six-week period following the initial six-week period of a school year, a student shall not have a recorded grade average lower than 70 on a scale of 0-100 in any course for the preceding six-week period.

19 TAC 97.113 (c), (d)

SUSPENSION FROM EXTRACURRICULAR ACTIVITIES

A student whose recorded six-week grade average in any course is lower than 70 at the end of a six-week period shall be suspended from participation in any extracurricular activity event during succeeding six-week periods until the end of a six-week period during

which the student achieves a course grade average for that six-week period of at least 70 in each course. This suspension shall become effective seven days after the last day of the six-week period during which the grade lower than 70 was earned.

HANDICAPPED STUDENTS

Suspension of a handicapped student whose handicap significantly interferes with the student's ability to meet regular academic standards shall be based on the student's failure to meet the requirements of the student's Individual Education Plan, as determined by the ARD committee.

EXCEPTIONS FOR HONORS/ ADVANCED COURSES

The campus principal may remove this suspension if the class is identified as an honors class [see EHDC] or is an advanced class, as follows:

1. English language arts: English IV Academic (Comp.), English IV Academic (British Literature), World Literature, Creative/Imaginative Writing, Research/Technical Writing, Debate III, Public Speaking III.

2. Other Languages: Other Languages III, Advanced Languages I-IV.

3. Social Studies: Advanced Social Science Problems.

4. Fine Arts: Art IV, Theatre Arts IV, Band IV, Orchestra IV, Choral Music IV, Stage Band IV, and Music Theory I-II.

5. Mathematics: Trigonometry, Elementary Analysis, Analytic Geometry, Pre-Calculus, Linear Algebra, Calculus.

6. Science: Physics, Physics II, Chemistry II, Biology II.

OUT-OF-SCHOOL PRACTICE

A student who has been suspended from extracurricular activity events shall also be suspended from out-of-school practice in extracurricular activities until suspension from participation has been lifted.

19 TAC 97.113(e)-(g); Education Code 21.920(b)

LIMIT ON SUSPENSION	A student may not be suspended from participation during the period in which school is recessed for the summer or during the initial grade reporting period of a regular school term on the basis of grades received in the final grade reporting period of the preceding regular school term. *Education Code 21.920(c)*
REINSTATEMENT TO EXTRACURRICULAR ACTIVITIES	At the end of any six-week period in which a student attains a course grade average for that six-week period of 70 or more in each course taken, any suspension from participation in extra-curricular activities and/or suspensions from out-of-school practice for extracurricular activities shall be removed. *19 TAC 97.113(h)*
PRACTICE AND PERFORMANCE TIME	Students may practice outside the school day in any single extracurricular activity a maximum of eight hours per school week. The District shall not schedule more than one contest or performance per activity per student per school week, unless the commissioner of education has

made an exception based on the District's limited facilities.

The District may schedule more than one contest or performance per activity per student per school week to accommodate tournaments, post-season competition, and contests postponed by weather or public disaster when the performance or contest is sponsored by UIL or other school-sanctioned organization.

19 TAC 97.113(k)

"10-DAY RULE"	The District shall not schedule, nor permit students to participate in, any school-related or -sanctioned activities on or off campus that would require, permit, or allow a student to be absent from class in any course more than ten times during the 175-day school year (full-year course). *19 TAC 97.113(a)*
EXCEPTIONS	The District shall inform the commissioner of education of specific exceptions to the ten absences per class limitation stated above. Such exceptions shall be made only on behalf of individual

students who are competing in UIL-sponsored activities or in post-district competitions sponsored by other organizations approved by the commissioner of education. The exception shall be based on circumstances that are unforeseen and that result from the student's earning the right to compete at post-district levels. Exceptions shall not exceed a total of five additional absences per year. Exceptions shall not be granted to allow students who have not earned the right to compete at the post-district level to participate in more district-level activities than permitted under the ten absences per class limitation. *19 TAC 97.113(b)*

SANCTIONED ACTIVITIES

All UIL-sponsored activities are sanctioned as school-related activities and, therefore, come under the provisions of this policy. Other organizations may be recognized as sanctioned school activities, subject to all provisions of this policy, upon approval by the commissioner of education and the Board. If approval is not granted by both the commissioner and the Board, any absences incurred by a

student in order to participate in that organization's activities shall be unexcused. *19 TAC 97.113(i)*

DEFINITIONS

Definitions of curricular, cocurricular, and extracurricular activities shall be as follows:

1. Curricular activities occur within the regular school day and constitute the delivery of instruction as specified in 19 TAC, Chapter 75.

2. Cocurricular activities are an extension of classroom instruction in which participation is by the entire class or a significant portion thereof. They relate directly to, and enhance student learning of, essential elements through participation, demonstration, illustration, and observation. Cocurricular activities are included in the teacher's instructional plan and are conducted by or supervised by a classroom teacher or other educational professional such as a librarian, school nurse, counselor, or administrator.

Students suspended from extracurricular activities because of a six-week grade(s) below 70 shall not be prevented from participating in after-school cocurricular activities. Absences for participation in cocurricular activities that require a student to miss a class other than the sponsoring class or course shall be counted under the ten-day rule.

3. Extracurricular activities are school-sponsored activities that are not directly related to instruction of the essential elements, but that may have an indirect relation to some areas of the curriculum. They offer worthwhile and significant contributions to a student's personal, physical, and social development. Participation in extracurricular activities is a privilege and not a right, and students must meet specific requirements in order to participate. Activities may include, but are not limited to, performances, contests,

demonstrations, displays, and club activities.

19 TAC 97.113(m)

ISSUED DATE: 10/19/90
UPDATE 38
FM (H)-P

SANTA FE ISD
084909

STUDENT ACTIVITIES FM

EQUAL ACCESS ACT

If a District secondary school has a limited open forum, as defined below, it shall not deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings. *20 U.S.C. 4071(a)*

LIMITED OPEN FORUM

A District secondary school has a limited open forum whenever the school grants an offering to or an opportunity for one or more noncurriculum-related student groups to meet on school premises during noninstructional time. *20 U.S.C. 4071(b)*

"Noninstructional time" means time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends. *20 U.S.C. 4072(4)*

"Noncurriculum-related student group" means any student group that does not directly relate to the body of courses offered by the school. A student group directly relates to the school's curriculum if it meets any of the following criteria:

1. The subject matter of the group is actually taught or will soon be taught in a regularly offered course.

2. The subject matter of the group concerns the body of courses as a whole.

3. Participation in the group is required for a particular course.

4. Participation in the group results in academic credit.

Westside Community School v. Mergens, 110 S.Ct. 2356 (1990)

If a school has a limited open forum, it shall be deemed to offer a fair opportunity for students to conduct meetings within its forum if it uniformly provides that:

1. The meeting is voluntary and student-initiated.

2. There is no sponsorship of the meeting by the school or any government or its agents or employees.

3. School employees are present at religious meetings only in a nonparticipatory capacity.

4. The meeting does not materially and substantially interfere with the orderly conduct of educational activities within the school.

5. Nonschool persons shall not direct, conduct, control, or regularly attend activities of student groups.

20 U.S.C. 4071(c)

The establishment of a limited open forum shall not authorize the school or the District to:

1. Influence the form or content of any prayer or other religious activity.

2. Require any person to participate in prayer or other religious activity.

3. Expend public funds beyond the incidental cost of providing the space for student-initiated meetings.

4. Compel any school agent or employee to attend a meeting if the content of the speech at the meeting is contrary to the beliefs of the agent or employee.

5. Sanction meetings that are otherwise unlawful.

6. Limit the rights of groups of students that are not of a specified numerical size.

7. Abridge the constitutional rights of any persons.

20 U.S.C. 4071(d)

MAINTAIN ORDER

The establishment of a limited open forum shall not limit the authority of the school, the District, its agents, or its employees to

maintain order and discipline on school premises, to protect the well-being of students and faculty, and to assure that attendance of students at meetings is voluntary.
20 U.S.C. 4071(f)

ISSUED DATE: 02/21/91 ADOPTED: 1-18-88
UPDATE 39 AMENDED: 2-18-91
FM (H)-P. Aug. 19, 1991

Exhibit 36

CONSTITION OF THE STUDENT COUNCIL
OF SANTA FE HIGH SCHOOL

ARTICLE I
Name

This organization shall be known as the Student Council of Santa Fe High School.

ARTICLE II
Purpose

The purpose of this organization shall be:

1. To bring about closer cooperation between the faculty and the student body as representatives of the student body.
2. To cooperate with administration in all problems concerning the school and the student body.
3. To create and maintain school spirit, morale, and respect.
4. To help make this a better school for the community, the faculty, the student, and ourselves.

ARTICLE III
Powers of the Student Council

Section A. The Student Council reserves the right to the following powers:

1. To charter all clubs.
2. To evaluate all Student Council projects, programs, and special events.
3. To run all school elections.
4. To send two delegates to each school board meeting.
5. To conduct assemblies.
6. To organize special events such as Homecoming, Sweetheart Night, Parent's Night, Pow Wow, etc.

Section B. The Advisors of Santa Fe High School Student Council is/are recognized as having the RIGHT TO VETO ANY ACTION of the Student Council which is not standing with present policies.

ARTICLE IV
Membership

Section A. The Student Coucil shall consist of:

1. The Executive Board, made up of the President, Vice-President, Corresponding Secretary, Recording Secretary, Treasurer, Sergeant at Arms, Chaplin, and the Chief Representative.
2. The Assembly, which is composed of four representatives from each class, plus the presidents of the four classes and members of the work-on council.

Section B. A quorum shall consist of fifty percent of the membership plus one.

ARTICLE V
Duties and Responsibilities of the Student Council

The Student Council is responsible for the following duties:

1. School visitor ushering.
2. Constitutional Re-evaluation.
3. Duties related to Student Council activities.
4. Promoting school morale and pride.
5. Keeping the school and the community aware of all Council activities.
6. Any duty or responsibility assigned to the Student Council by the administration.

ARTICLE VI
Amending the Constitution

The Constitution may be ammended by a quorum vote of the Student Council.

BY-LAWS

ARTICLE I
Qualifications for Candidates

Section A. Officers of the Student Council shall:

1. Have an 85 overall average.

2. Have at least one year of experience on the Student Council.
3. The president must be a member of the Senior Class, unless he/she is an underclassman filling the vacated office.
4. All other officers must be a sophomore, Junior, or Senior.
5. Both the Corresponding Secretary and the Recording Secretary must know how to type.

Section B. Representatives and work-on Student Council members shall:

1. Have an 80 overall average.
2. Have a desire to serve.

Section C. Special Permission

1. If a candidate for any Student Council position has been suspended from school for a disciplinary action, he/she may not run for Council.

ARTICLE II
Elections

Section A. Officers

1. The Officers of the Student Council shall be elected during the fifth Six weeks of the year preceding their term. The specific date is left to the descretion of the Executive Board and the Principal.

2. Candidates must obtain a petition from a council sponsor and return it complete with 25 student signatures, 3 teacher signatures, and a paragraph stating why they are running for that office at least one week before the date of the election.
3. Officer Elections (except President) After Representatives are elected for next school year council (all reps.) meets and take officer nominations from council.

   Each officer is elected by majority (secret ballots) of reps. present.

   Elections are run by current President (with assist of sponsor) according to parliametary procedure.

4. Results will be determined by a simple majority vote for one candidate. If the majority vote is not cast for a single candidate, there shall be a run-off election held within one week.

Section B. Representatives

1. Candidates must obtain a petition from a council sponsor and return it complete with 5 student signatures, 3 teacher signatures, and a paragraph stating why they are running for representative at

least one week before the date of the election. Candidated will not be allowed to give a compaign speech before their class.

3. The class representatives shall be elected in the spring of the year preceding their term of office.
4. The representatives shall be elected by their respective classes.
5. The Chief Representative, elected in the spring shall be the Senior representative with the most seniority. If there is a tie, the senior representative having the most votes will serve this position. The Chief Representative is to be counted as one of the four representative of the Senior Class.

Section C. Work-on Council

1. Candidates must obtain a petition from a council sponsor and return is complete with 5 student signatures, 3 teacher signatures, and a paragraph stating why they are running for council.
   The first cut will be made after the grade survey to make sure the grades average to 80 overall.
3. Teacher evaluation will be read and considered in the next step to Work-on Council.
4. An interview with the executive board and Student Council sponsors will be set up which the candidates must attend.

5. The Work-on council member shall be elected by the executive board and the sponsors by a majority vote.

ARTICLE III
Duties and Responsibilities of the Officers and Representatives

Section A. Officers

1. The President shall:
   a. Preside over all meetings of the Student Council, the Student Body, and the Executive Board.
   b. Call special meetings, with permission from the advisor.
   c. Be responsible for carring out the purpose of the Council.
   d. Be the official representative of the Student Body.

   The Vice President shall:
   a. Serve as the presiding officer in the absence of the President.
   b. Appoint and preside over all committees.
   c. Serve as President if office is vacated.

3. The Recording Secretary shall:
   a. Keep the minutes of all Student Council and Executive Board meetings.
   b. Keep files up-to-date.

c. (illegible)
proper people.
e. Be responsible for writing
Outstanding Council report.

4. The Corresponding Secretary shall:
   a. Send, receive, and answer all outside correspondence at the direction of the Student Council.
   b. Take over the duties of the Recording Secretary in case of his/her absence or inability to serve.
   c. Record attendance at all meetings.
   d. Provide information on Council activities to local newspaper.
5. The Treasurer shall:
   a. Keep a record of all money held, acquired, and disbursed by the Student Council and make a report of this record at each Council Meeting.
   b. Be present at all money-making projects.
   c. Be responsible for the general operation of any vending machine.
6. The Chaplain shall:
   a. Lead the Pledge of Allegiance and say the prayer at all meetings, athletic events and other occasions when the Student Council is asked to do this.
   b. Will assist the Sergeant-at-Arms in keeping points.
7. The Sergeant-at-Arms shall:
   a. Keep order in all meetings.

   b. Keep records of all points earned by members.
8. The Chief Representative shall:
   a. Hold meetings with representatives to discuss problems or gain suggestions.
   b. Talk to the Executive Board for the representatives.
   c. Attend all Executive Board meetings.
   d. Keep calendars of events.
   e. Post all minutes, agendas, and calendars in class rooms, etc.
   f. Hold an orientation for the new council members as soon as possible after elections are complete.
9. All officers shall be required to maintain an 85 average, receive no more than one "U" in conduct, and not be sent to Alternative School or suspended from school during a tenure of office. Failure to meet any of these requirements will result in immediate removal from office.

Section B. Representatives and Work-On Council members shall:

1. Maintain an 80 average, receive no more than one "U" in conduct, and not be sent to Alternative School or be suspended from school during a tenure of office. Failure to meet any of these requirments will result in immediate removal from office.

2. Participate in all activities of the Student Council.
3. Inform respective classes of activities of the Student Council. (Representatives)
4. Gather information from respective classes to report to the Student Council. (Representatives)

Section C. The Executive Board

1. Review all candidate qualifications for the Student Council.
2. Advise the Student Council that a candidate should not be allowed to run if he does not meet the requirements.
3. Run all Council meetings.
4. Do all the above with approval of the Advisor and Principal.

ARTICLE IV
Meetings

Section A. The Student Council shall been at least once a week, conditions permitting
The day of the week shall be set at the beginning of the year.

Section B. The President has the power to call any special meetings. If anyone feels that a special meeting is necessary, he should contact the President.

ARTICLE V
Dismissal of members

Section A. An officer or representative may be removed from office for any neglection of duties expressed in this constitution, or not meeting the minimum number of points according to the point system.
An officer or representative may be removed from office by being assigned to the alternative school, home campus or expelled.
An officer or representative may be removed from the council for conviction of misdemeanors or felonies.

Section B. The process for removal shall be as follows:

1. All action for removing either an officer or representative from office must begin in the Executive Board. However, any member may initiate this action.
2. If a simple majority of the Executive Board feel that an officer has not met the requirements set forth in Article V, Section A, the issue will then be brought before the entire Student Council. If a simple majority of the Student Council feels as if he/she has not bet the requirements set forth in Article V, Seciton A.

Section C. If an officer or representative is found guilty of misconduct according to Article V. Section A, during this tenure of office, he will automatically be asked to resign

ARTICLE VI
Vacancies

Section A. If a representative or work-on council member vacates his or her office for any reason during the first semester of the school year, a new person will be moved up from the list of people running who did not make the council.

Section B. If the President is removed from office or leaves the school, the Vice President then becomes President. A new Vice President shall then be elected from within the Student Council.

Section C. If any other office is vacated, an election will be held within the Council.

Section D. If an office becomes vacant after 1st semester, the work will be covered by other officers. No replacement will be chosen, since this would not be fair when demerits are counted for the year.

ARTICLE VII
Amending the By-Laws

The By-Laws may be amended by a quorum vote of the Student Council.

Exhibit 37

[Text in handwritten font was handwritten on original]

Santa Fe ISD
084909

STUDENT RIGHTS AND RESPONSIBILITIES FN (LOCAL)

STUDENT RIGHTS	Each student is expected to respect the rights and privileges of other students, teachers, and District staff; all teachers, administrators, and other District personnel are expected to have respect for the rights and privileges of students.
PRAYER AT FOOTBALL GAMES	The Board has chosen to permit invocations to be delivered during the pre-game ceremonies of home varsity football games to solemnize the event and to establish the appropriate environment for the competition. Upon advice and direction of the high school principal, each spring, the high school student council shall conduct an

election, by the high school student body, by secret ballot, to determine if invocations are to be a part of the pre-game ceremonies and if so, shall elect a student, from a list of student volunteers, to deliver the invocations.

If the District is enjoined by court order from enforcement of this policy, then and only then will the following policy automatically become the applicable policy of the District.

The Board has chosen to permit nonsectarian, nonproselytizing invocations to be delivered during the pre-game ceremonies of home varsity football games to solemnize the event and to establish the appropriate environment for the competition.

Upon advice and direction of the high school principal, each spring, the high school student council shall conduct an election, by the high school student body, by secret ballot,

to determine if invocations are to be a part of the pre-game ceremonies and if so, shall elect a student, from a list of student volunteers, to deliver the invocations.

DISCIPLINE MANAGEMENT PLAN

The Board, in accordance with legal requirements, has adopted a local Discipline Management Plan. The plan includes a list of student responsibilities, and is intended to provide comprehensive information regarding student conduct and discipline. [See policy series FN and FO]

STUDENT HANDBOOK

A student handbook containing information useful to students and parents and the code of student conduct shall be distributed at the beginning of the school year to all students and parents, teachers, and administrators. It shall also be provided to new professional employees, newly enrolled students, and any other person on request. Changes during the year shall be published and distributed during the next

semester, but no later than the beginning of the next school year.

Each student and parent upon issue of the student handbook shall sign a statement that they have received and read it; parents annually shall acknowledge their responsibilities outlined in the student code of conduct.

The administration shall periodically review student handbooks and recommend revisions to the Board for its approval. Student handbooks are approved by the Board and constitute an extension of Board policy. Violation of conduct provisions contained in the handbooks shall result in disciplinary action. [See FO, FOA, FOD]

DATE ISSUED: 09/04/95
LDU-36-95
FN(LOCAL)-X

ADOPTED: 1-18-88
3-21-88
OCT 10 1995

Doe v. Santa Fe Independent School District:

AMENDED STIPULATION OF FACT

[Filed Feb. 20, 1996 in U.S. District Court, S.D. Tex.]

On February 2, 1996, the parties filed Stipulations of Fact and numerous exhibits with the Court. One of the exhibits, Exhibit 37, a copy of a school district policy coded FN (Local), is incorrect. A superseded version of the policy was erroneously attached to the stipulations. The correct version of Policy FN (Local) is attached to this amended stipulation. This amended stipulation is filed with the consent of Plaintiffs' counsel, Debbie Perkey of the ACLU.

Respectfully submitted,

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STUDENT ACTIVITIES: FN (LOCAL)
PRE-GAME CEREMONIES AT FOOTBALL GAMES

The board has chosen to permit students to deliver a brief invocation and/or message to be delivered during the pre-game ceremonies of home varsity football games to solemnize the event, to promote good sportsmanship and student safety, and to establish the appropriate environment for the competition.

Upon advice and direction of the high school principal, each spring, the high school student council shall conduct an election, by the high school student body, by secret ballot, to determine whether such a statement or invocation will be a part of the pre-game ceremonies and if so, shall elect a student, from a list of student volunteers, to deliver the statement or invocation. The student volunteer who is selected by his or her classmates may decide what message and/or invocation to deliver, consistent with the goals and purposes of this policy.

If the District is enjoined by a court order from the enforcement of this policy, then and only then will the following policy automatically become the applicable policy of the school district.

The board has chosen to permit students to deliver a brief invocation and/or message to be delivered during the pre-game ceremonies of home varsity football games to solemnize the event, to promote good sportsmanship and student safety, and to establish the appropriate environment for the competition.

Upon advice and direction of the high school principal, each spring, the high school student council shall conduct an election, by the high school student body, by secret ballot, to determine whether such a message or invocation will be a part of the pre-game ceremonies and if so, shall elect a student, from a list of student volunteers, to deliver the statement or invocation. The student volunteer who is selected by his or her classmates may decide what statement or invocation to deliver, consistent with the goals and purposes of this policy. Any message and/or invocation delivered by a student must be nonsectarian and nonproselytizing.

(Certificate of service omitted in printing)